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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/010,798  | 11/13/2001  | Stefan Tobolka       | SIM0080             | 3063             |
| 832   | 7590        | 12/24/2003           |                     |                  |
| BAKER & DANIELS<br>111 E. WAYNE STREET<br>SUITE 800<br>FORT WAYNE, IN 46802 |             |                      | EXAMINER            |                  |
|   |             |                      | SIPOS, JOHN         |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3721                |                  |
| DATE MAILED: 12/24/2003   |             |                      |                     |                  |

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Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                 |
|------------------------------|-----------------|-----------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)    |
|                              | 10/010,798      | TOBOLKA, STEFAN |
| Examiner                     | Art Unit        |                 |
| John Sipos                   | 3721            |                 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5,7-16,18-24,34,35,37-45,48,54,56-60 and 66-70 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-5,7-16,18-24,54 and 56-60 is/are allowed.
- 6) Claim(s) 34,35,37-45,48 and 66-70 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: ____ .                                   |

### ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 69 and 70** are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no proper antecedent for the heat-sealing “bands” of these claims. Claim 66 recites only one band.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

**Claims 34,41,45,48 and 66-70** are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Prottengeier (4,551,965). The reference shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises convex bands 22 with a central cutter 25 and an opposing convex backing on the other jaw 21 with a groove 24 aligned with the cutter.

**Claims 34,45,48 and 66-70** are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Seko (4,288,968). The reference shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises convex bands 24,26 with a central cutter 30 and an opposing convex backing on the other jaw 58.

**Claims 66** is rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Boeckman (5,067,302). The reference shows opposing heat-sealing jaws operable to come

into contact with each other wherein one jaw comprises convex bands 20 with a central cutter 28 and an opposing backing on the other jaw with a groove 35 aligned with the cutter.

**Claims 35 and 37-44** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Prottengeier (4,551,965). The use of electrical insulating backing (claims 35 and 42), curved bands (claim 37), electrical connection tabs (claims 38 and 39) aluminum and silicon backing (claims 40 and 44) are well known in the art and their use in the Prottengeier device would have been obvious to one skilled in the art for their known benefits.

**Claims 35 and 37-40** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Seko (4,288,968). The use of electrical insulating backing (claim 35), curved bands (claim 37), electrical connection tabs (claims 38 and 39) aluminum and silicon backing (claim 40) are well known in the art and their use in the Seko device would have been obvious to one skilled in the art for their known benefits.

**Claims 34,35,37-45,48 and 66-70** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Tobolka (EP0995683 - cited by applicant) in view of Prottengeier (4,551,965) or Seko (4,288,968). The patent to Tobolka shows a form-fill-seal machine which comprises opposing sealing jaws having a pair of curved bands 226 between which is positioned a cutter band 212. The secondary references show convex sealing bands and backing surfaces that move the product away from the seal area. It would have been obvious to one skilled in the art to form the bands of Tobolka in convex shape to aid in moving the product away from the sealing area from between the two films.

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***ALLOWABLE SUBJECT MATTER***

**Claims 1-5,7-16,18-24,54 and 56-60** are allowed.

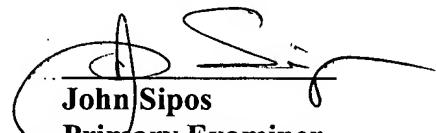
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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



John Sipos  
Primary Examiner  
Art Unit 3721

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